

Attorney's Reference Number: 1192-012/ddh

2. Remarks

The Examiner has now rejected all of the claims as obvious over the combination (a) US patent publication 2004/0035992 (Watts) with USP 5,021,059 (Kensey), and (b) USP 4,184,657 (Jardine) with Kensey. Applicant respectfully traverses the rejections for the reasons set forth in prior responses detailing the Watts and Jardine references, and for the reasons set forth herein.

Neither Jardine nor Watts teaches visible placement indicia that indicates the quality of cam placement. The Examiner argues that "the stepped gripping members are capable of correlating to the quality of cam placement in a rock." Applicant disagrees because the stepped gripping members have no correlation whatsoever with any indicia that indicates quality. Even if the gripping members were construed as being "indicia" (which is a misreading of these patents), there still is nothing that correlates to placement quality. The gripping members are the same over the entire surface of the cam members in Jardine and Watts. With these cams, it would make no difference whatsoever how the cam actually fit in a crack—there is nothing that would indicate to the climber that the quality of the placement were good, bad, or otherwise. If a climber were to make a judgment about the quality about placement quality based on these gripping members (which as a practical matter would be impossible), the judgment would necessarily be based on the climber's experience: there is nothing to indicate that one placement would be better than another. Said another way, there are no indicia on these cams that correlate to placement quality.

In stating that the Watts and Jardine (a) teach visible displacement (sic: placement) indicia, and (b) disclose stepped gripping members that are capable of correlating the quality of cam placement in a rock, the Examiner misconstrues the references and what they disclose, and the purpose and function of the visible placement indicia as claimed herein. As noted, Jardine and Watts lack any indicia that correlates to cam placement quality.

The Examiner argues that the stepped gripping surfaces shown in these patents teach visible placement indicia. This is not correct. The grooved outer surfaces used on the cams in those patents are a standard structural feature used

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on almost all cams in order to provide a greater frictional grip between the cam and the rock. These grooves are not "visible placement indicia" as claimed, and they do not correlate to indicia that indicates the quality of cam placement. As detailed in the specification and as used in the claims, the claimed visible placement indicia are placed on the cams in order to provide a visually identifiable system that correlates to a recommended placement in a rock crack (see, e.g., page 7, last paragraph). The indicia are intended to give the climber a simple manner in which to visually assess the quality of cam placement, so that the climber may easily visual verify and confirm that the selected cam device 10 is of the correct size for a given rock crack, and that the cam device is correctly placed.

For these reasons, Jardine's and Watts' stepped gripping surfaces are incapable of meeting the limitations recited in the claims.

Even more striking is the inability of Jardine's and Watts' gripping members to correlate in any manner to the quality of cam placement in a rock. The Examiner argues that the gripping surfaces are visible from the side surfaces. Perhaps, but no matter what the position of the cams relative to the rock surfaces, there is nothing on the Jardine or Watts cams that in any way indicates the quality of the placement in the rock. The "quality" of cam placement is described throughout the specification of the present invention; in a nutshell, the quality of the cam placement relates to the appropriateness of a specific cam for use in a specific crack. The ability of the claimed visible placement indicia to correlate to cam placement quality allows the climber to quickly assess whether the selected cam is of an appropriate size.

Each of the independent claims in the application (1, 9, 14) further includes a limitation specifying that the indicia is capable of indicating unsafe cam placement quality. The Examiner cites the Kensey patent to supply this claim limitation. Kensey describes an apparatus that is used to seal punctures in tissue. The device has a plunger that includes color-coding so that the user can visually see how far to activate the plunger.

The Examiner has failed to establish a *prima facie* case of obviousness in combining these references. First, as noted, neither Jardine nor Watts disclose indicia correlating to cam placement quality. As such, the Examiner has failed to

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identify any reference that discloses this claim element. Second, there is nothing in any of the references that discuss in any manner the need for indicia telling the climber when cam placement is unsafe. Fundamentally, neither Jardine nor Watts discuss this positively claimed element. There is absolutely no suggestion in these references about some system of cam placement quality indicia, or safety indicia.

While Kensey is an example of a tool that uses a color-coded safety indicator system, Kensey does not provide any suggestion or motivation that would lead one of ordinary skill in the art to combine the references as suggested by the Examiner. The Examiner states that it is well known that the color red is associated with danger, yellow with caution, and green with safety. Applicant does not disagree. However, there is a huge gap between this general statement, and Kensey's use of a color system, and any suggestion to provide an indicia system on a cam as claimed.

Moreover, even if one were to borrow Kensey's color coding system and try to apply it to Jardine or Watts' cams, the claimed invention could not be derived because, again there are no indicia indicating quality. Jardine and Watts do not say anything about what part of the cam would be safe, what would be unsafe. There would not be, therefore, any reasonable expectation that the combination proposed by the Examiner would be successful. Accordingly, the prior art cited by the Examiner does nothing to suggest the claimed combination.

For these reasons, the Examiner has failed to establish *prima facie* obviousness and the rejection is inappropriate. All of the claims in the case are allowable.

Specific comments about selected claims follow:

Claim 1 recites that the visible placement indicia *indicates* the quality of cam placement in a rock, and includes indicia for *indicating when cam placement is not safe*.

Claim 9 recites that the cam members have indicia capable of indicating *unsafe* placement.

Claim 14 recites that the visible indicia means includes visual indicators indicating *unsafe* cam placement.

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As argued above, neither Jardine's nor Watts' cams have indicia that *indicates* cam placement quality. Even if the Examiner's argument that the gripping members read on the claimed indicia (a position the Applicant disagrees with), there is nothing that indicates quality. Moreover, neither Jardine nor Watts can in any way indicate when placement is unsafe. Kensey does not teach or suggest any way that indicia on a cam could indicate the quality of placement, or when cam placement is unsafe.

Claims 4, 11, 12 and 15 are amended to recite that the visible indicia comprises multiple color coded indicia. These claims are not obvious over the combinations cited by the Examiner. Although Kensey describes color-coding schema for a medical instrument, it does not suggest the claimed multi-colored indicia correlating to quality of cam placement.

Each of claims 5, 6, 16 and 17 specifies a graduated scale marking in which the graduations correlate to cam placement quality. There is nothing in any reference cited by the Examiner that shows any graduated scale at all.

The Examiner rejects claims 7, 8, 12, 13 and 18-20 as obvious over either Watts or Jardine with Kensey. For the reasons noted above, none of the references teach or suggest the claimed color systems.

Claims 8, 13 and 19 specify that a colored zone in the multi-color marking system correlates to a predetermined portion of the rock-contacting surface of the cam. The references do not suggest or teach such a claim.

The claims pending in the case are allowable over the prior art. Allowance of the application is respectfully requested.

Respectfully submitted,



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